

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ADAM IRA ASHER,

Plaintiff,

v.

PIERCE COUNTY JAIL, *et al.*,

Defendants.

Case No. C07-5235 RBL/KLS

REPORT AND
RECOMMENDATION

Noted for: October 26, 2007

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. It has been more than sixty days since mail addressed to Plaintiff was returned to the Court. The Court does not have a current address for Plaintiff. Plaintiff appears to have abandoned this action.

I. DISCUSSION

On May 10, 2007, Plaintiff filed a motion for leave to proceed *in forma pauperis*. (Dkt. # 1). Plaintiff submitted no authorization or acknowledgment form, no written consent form and no prison trust account statement. (*Id.*). On May 15, 2007, the Clerk of the Court sent a letter to Plaintiff informing him that he must either pay the court filing fee or submit a proper application to proceed *in forma pauperis* by June 14, 2007, or this matter could be subject to dismissal. (Dkt. # 2).

On June 21, 2007, Plaintiff was ordered to cure the deficiencies in his application to proceed *in forma pauperis* by providing no later than July 31, 2007, a copy of his prison trust account statement pursuant to 28 U.S.C. § 1915(a)(2) showing the balance and activity of his account(s) for the six-month period immediately preceding the filing of his complaint, a copy of the acknowledgment and

1 authorization form pursuant to 28 U.S.C. § 1915(b), and the written consent required by Local Rule CR
 2 3(b). (Dkt. # 3). Plaintiff did not respond to the order to show cause nor did he request an extension of
 3 time within which to respond.

4 Plaintiff's mail with the Court's Order to Show Cause (Dkt. # 3), addressed to Plaintiff at his last
 5 known address, was returned to the Court as "Undeliverable." (Dkt. # 4). Plaintiff failed to notify the
 6 Court of any change in his address. As this action has existed for more than sixty days without
 7 notification from Plaintiff of his current address, dismissal of this action is appropriate pursuant to Local
 8 Rule 41(b)(2), which provides:

9
 10 A party proceeding pro se shall keep the court and opposing parties advised as to
 11 his current address. If mail directed to a pro-se plaintiff by the clerk is returned by
 12 the post office, and if such plaintiff fails to notify the court and opposing parties
 within sixty days thereafter of his current address, the court may dismiss the action
 without prejudice for failure to prosecute.

13 Accordingly, the undersigned recommends **DISMISSAL WITHOUT PREJUDICE** for failure to
 14 prosecute pursuant to Local Rule 41(b)(2).

15 II. CONCLUSION

16 The Court should dismiss this action as Plaintiff has left no forwarding address and appears to
 17 have abandoned the case. A proposed order accompanies this Report and Recommendation.

18 Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), the parties shall
 19 have
 20 ten (10) days from service of this Report and Recommendation to file written objections thereto. *See also*
 21 Fed.R.Civ.P. 6. Failure to file objections will result in a waiver of those objections for purposes of
 22 appeal. *Thomas v. Arn*, 474 U.S. 140 (1985). Accommodating the time limit imposed by Fed. R. Civ. P.
 23 72(b), the Clerk is directed to set this matter for consideration on **October 26, 2007**, as noted in the
 24 caption.

25 Dated this 1st day of October, 2007.

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28 Karen L. Strombom
 United States Magistrate Judge